

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 1:15-cv-13367
)	
v.)	Judge Allison D. Burroughs
)	
MONICA TOTH,)	
)	
Defendant.)	
_____)	

DECLARATION OF ANDREW A. DE MELLO

I, Andrew A. De Mello, pursuant to 28 U.S.C. Section 1746, declare as follows:

1. I am a Trial Attorney with the United States Department of Justice, Tax Division, and have primary responsibility for the above-captioned case.
2. The United States filed the Complaint in the above-captioned case, on September 16, 2015, naming Monica Toth as defendant. (Docket number 1).
3. On January 11, 2016, the United States effected service on Monica Toth by causing a service processor to leave a Summons and a copy of the Complaint at Monica Toth's residence (76 Hallet Hill Road, Weston, MA 02493) (Docket number 4) as permitted by Federal Rule of Civil Procedure 4(e)(1) (allowing service in conformity with state court practice) and Massachusetts Rule of Civil Procedure Rule 4(d)(1) ("by leaving copies thereof at his last and usual place of abode"). See attached declaration of Ian Daley, process server.
4. Undersigned counsel caused another copy of the complaint and summons to be transmitted to the defendant by certified mail on January 14, 2016.
5. As set forth more fully in the attached declaration of the process server, defendant Monica

Toth appears to have notice of the suit and attempted to wilfully evade service of process. For example, the process server's declaration states that a man, who refused to identify himself, appeared to live at the property and was seen there on many occasions (by the process server). That man refused to accept service on behalf of Ms. Toth (even though the process server explained that he needed to locate her to serve her with legal process, and gave the man his business card). But that same man stated to the process server that (a) Monica Toth lived at the residence; (b) that he spoke with Ms. Toth about the process server attempting to serve her with process; and (c) that Ms. Toth informed that man that she did not want to accept any documents from the service processor. This means that Monica Toth had knowledge of the suit, knowledge that a process server was trying to serve her, refused to accept documents regarding the case, and she thus actively evaded service of process.

6. The defendant Monica Toth has not replied or otherwise filed a responsive pleading to the Complaint and the time allowed under the Federal Rules of Civil Procedure for her to do so has expired.

7. Upon information and belief, defendants Monica Toth is not an infant or incompetent person.

I declare under penalty of perjury that the foregoing is true and accurate. Executed on this fifth day of February, 2016, Washington, DC.

/s/Andrew A. De Mello
ANDREW A. DE MELLO
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Washington, D.C. 20044
Telephone: (202) 307-1372
Fax: (202) 514-5238
Email: Andrew.a.de.mello@usdoj.gov